

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CRIMINAL NO. 18-4176 JB
)	
vs.)	
)	
STERLING ISLANDS, et al.,)	
)	
Defendants.)	

NOTICE OF INTENT TO OFFER EXPERT WITNESS TESTIMONY

The United States of America (hereinafter, the “United States”) hereby gives notice to the defendants, pursuant to Fed. R. Crim. P. 16(a)(1)(G) and Fed. R. Evid. 702, 703, and 705, that the United States intends to offer certain expert witness testimony in its case-in-chief at trial.

Testimony of Liz Wallace

Ms. Wallace is a professional Native American artist who has created handmade silver jewelry for more than 20 years, including earrings, pendants, and bracelets. She is known for making jewelry with classic designs such as turquoise butterflies. Ms. Wallace has sold her jewelry at the Santa Fe Indian Market, the Wheelwright Museum, and at various galleries and shops in Santa Fe, Albuquerque, Shiprock, and other locations. She has also sold her jewelry nationally and internationally over the internet. Ms. Wallace is qualified by knowledge, skill, experience, training, and education as an expert in Native American jewelry, arts and crafts. She is extremely familiar with traditional Native American design motifs, materials, and construction. Ms. Wallace is also extremely familiar with the production of Native American jewelry, arts and crafts by particular Indians, Indian tribes, and Indian arts and crafts organizations in the United States. In particular, she is familiar with Navajo and Zuni jewelry,

arts, and crafts. Ms. Wallace will testify by opinion and otherwise about the Native American-style jewelry in this case, including how it incorporates traditional Native American design motifs, materials, and construction and therefore looks like, and could be mistaken for, jewelry, arts, and crafts made by Native Americans.

Testimony of Ira Wilson

Mr. Wilson is currently the executive director of the Santa Fe Indian Market, the largest and most prestigious juried Native American arts show in the world. He organizes this event in collaboration with artists, members, sponsors, and attendees. Mr. Wilson also has more than twenty-five years of experience in purchasing and retail sales of Native American jewelry, arts and crafts. He has managed the gift shop at the Indian Pueblo Cultural Center in Albuquerque where he worked closely with local indigenous artists.

Mr. Wilson is qualified by knowledge, skill, experience, training, and education as an expert in Native American jewelry, arts and crafts. He is extremely familiar with traditional Native American design motifs, materials, and construction. Mr. Wilson is also extremely familiar with the production of Native American jewelry, arts and crafts by particular Indians, Indian tribes, and Indian arts and crafts organizations in the United States. In particular, he is familiar with Navajo and Zuni jewelry, arts, and crafts. Mr. Wilson will testify by opinion and otherwise about the Native American-style jewelry in this case, including how it incorporates traditional Native American design motifs, materials, and construction and therefore looks like, and could be mistaken for, jewelry, arts, and crafts made by Native Americans.

Testimony of Dr. Ed Espinoza

Dr. Ed Espinoza is expected to testify about his comparison of FA4U Philippines manufactured jewelry seized from Sterling Islands and from Al Zuni with jewelry purchased from various retail stores that purchased Sterling Islands jewelry and sold it or offered it for sale as Indian made. Dr. Espinoza is expected to testify about his comparison of the stones and wildlife shells used in the jewelry, the metal, and the stamping in the metal. Dr. Espinoza is expected to testify based on his examination of these materials using photomicrography, analyzing microstructures, microscopic viewing, and scanning electron microscope. Upon completion of the examination, Dr. Espinoza is expected to testify to his conclusion that the jewelry has the same class characteristics, are not dissimilar in any measurable manner, and likely came from the same origin.

These expert witnesses may testify to certain hypothetical questions presented to them by the prosecution. This is clearly permissible under Fed. R. Evid. 703. *See United States v. Mendoza*, 236 F.App'x 371 (10th Cir. 2007); *Atwood v. Union Pacific Railroad Company*, 933 F.2d 1019 (10th Cir. 1991).

Respectfully submitted:

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/s/ Filed electronically
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I HEREBY CERTIFY that I filed the foregoing pleading electronically through the CM/ECF system which caused the opposing party of record to be served by electronic means, as reflected on the Notice of Electronic Filing, and other methods of service as indicated therein on June 5, 2019:

 /s/
Sean J. Sullivan
Assistant United States Attorney